

MAY 23 2008

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

NOT FOR PUBLICATION  
UNITED STATES COURT OF APPEALS  
  
FOR THE NINTH CIRCUIT

PROMETHEUS DEVELOPMENT  
COMPANY, INC.; et al.,

Plaintiffs - Appellants,

v.

EVEREST PROPERTIES; et al.,

Defendants - Appellees.

No. 06-16426

D.C. No. CV-06-02751-WHA  
Northern District of California,  
San Francisco

ORDER

Before: THOMPSON and M. SMITH, Circuit Judges, and HAYES,\* District Judge.

The Plaintiffs-Appellants' Conditional Petition for Panel Rehearing is GRANTED. The memorandum disposition filed April 8, 2008, dismissing the case, is withdrawn. Submission of this case is deferred pending disposition in *Perretta v. Prometheus Development Co.*, No. 06-15526.

---

\* The Honorable William Q. Hayes, United States District Judge for the Southern District of California, sitting by designation.